

2013 DRAFTING REQUEST

Assembly Amendment (AA-AB40)

Received: **6/6/2013** Received By: **jkreye**
Wanted: **As time permits** Same as LRB:
For: **Legislative Fiscal Bureau** By/Representing: **Shanovich (RR)**
May Contact: Drafter: **jkreye**
Subject: **Tax, Other - miscellaneous** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Legislative Fiscal Bureau**
Carbon copy (CC) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

LFB:.....Shanovich (RR) -

Topic:

Motion 999: federal audit reports enforcement activities

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 6/6/2013			_____			
/P1	jkreye 6/7/2013	evinz 6/7/2013	rschluet 6/7/2013	_____	mbarman 6/6/2013		
/P2				_____	lparisi 6/7/2013		

FE Sent For:

<END>

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/?	jkreye	1 epv 6/6/13		_____ _____			

FE Sent For:

<END>



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0373/P1

JK:.....

eev

LFB:.....Shanovich (RR) – Motion 999: federal audit reports enforcement activities

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY BILL 40

in 6-6-13

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 728, line 19: delete “with a” and substitute “with an audit”. ✓
- 3 **2.** Page 728, line 21: delete “determination” and substitute “audit
- 4 determination”. ✓
- 5 **3.** Page 728, line 25: delete “with a” and substitute “with the tax issue in the
- 6 prior audit”. ✓
- 7 **4.** Page 729, line 1: delete “the issue” and substitute “the tax issue in the prior
- 8 audit determination”. ✓

9 (END)

Kreye, Joseph

From: Shanovich, Ron
Sent: Friday, June 07, 2013 1:05 PM
To: Kreye, Joseph
Subject: FW: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities
Attachments: 13b0373/P1.pdf; Analysis 6 - Reliance on Past Audits Provisions.doc; 201306070955.pdf

Importance: High

Joe here's DOR's recs on prior audits Ron

From: Gibbons, Vicki L - DOR [<mailto:Vicki.Gibbons@revenue.wi.gov>]
Sent: Friday, June 07, 2013 11:27 AM
To: Shanovich, Ron
Cc: Hardt, Diane L - DOR
Subject: FW: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities
Importance: High

We did get the page numbers and line numbers of AB 40 to match. Attached is that version with the Assembly Amendment changes shown. Only our recommended change #4 is being addressed, the others are not. These are my concerns:

1. Our recommended change #1 was that all references to "determination" should be changed to "audit determination." We converted "determination" to "audit determination" wherever this occurred to incorporate recommended change #1. All these changes were picked up to sec. (b), but none were made to the rest of the proposed statute. Therefore, if nothing more is done, we will have reference to "determination" in sec. (a) and "audit determination" in sec. (b). On the attached copy of AB 40 I have circled the six times where "determination" is used in sec. (a). All of these should be changed to "audit determination."
2. Our recommended language to change the last sentence of sec. (b) was omitted. As it reads now, the first sentence refers to "any period associated with an audit determination," which is appropriate, and the last sentence refers to "any period associated with the tax issue in the prior audit determination." We don't think this last sentence reference is clear. To address this problem the corrected language that we proposed for the last sentence of sec. (b) should be used.

From: Weber, Nathaniel R - DOR
Sent: Thursday, June 06, 2013 6:10 PM
To: Gibbons, Vicki L - DOR
Cc: DeBano, Richard L - DOR; Miller, Wendy J - DOR; Hardt, Diane L - DOR
Subject: FW: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities
Importance: High

This appears to have the important changes we requested (see attached Analysis 6), but I cannot tell for certain since the page numbers and line numbers do not match AB 40 (budget bill). I am not sure what version of AB 40 Ron Shanovich is referencing, but it would be helpful to have it for our review.

Thanks,
Nate

From: Gibbons, Vicki L - DOR
Sent: Thursday, June 06, 2013 3:26 PM
To: DeBano, Richard L - DOR; Miller, Wendy J - DOR

Cc: Weber, Nathaniel R - DOR; Hardt, Diane L - DOR

Subject: FW: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities

Importance: High

Wendy and Rick,

Please review today or early tomorrow and let me know if any concerns with going outside of DOR proposal.

Thanks.

Vicki

From: Shanovich, Ron [<mailto:Ron.Shanovich@legis.wisconsin.gov>]

Sent: Thursday, June 06, 2013 2:48 PM

To: Gibbons, Vicki L - DOR

Subject: FW: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities

Hi Vicki! This draft which modifies the reliance on past audits is slightly different than the DOR recommended changes. Is it ok? Thanks Ron Shanovich

From: Schlueter, Ron

Sent: Thursday, June 06, 2013 12:51 PM

To: Shanovich, Ron

Cc: Reinhardt, Rob; Hanaman, Cathlene; Holten, Vicki

Subject: LRB Draft: 13b0373/P1 Motion 999: federal audit reports enforcement activities

Following is the PDF version of draft 13b0373/P1.

<<13b0373/P1>>

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.

ASSEMBLY BILL 40

SECTION 1466

1 **SECTION 1466.** 73.16 (3) of the statutes is created to read:

2 73.16 (3) RELYING ON PAST AUDITS. (a) A person who is subject to a determination
3 by the department, including all other members of that person's combined group for
4 purposes of determining the tax due under s. 71.23 for taxable years beginning after
5 December 31, 2008, shall not be liable for any amount that the department asserts
6 that the person owes if all of the following conditions are satisfied:

7 1. The liability asserted by the department is the result of a tax issue during
8 the period associated with a prior determination for which the person is subject to
9 and the tax issue is the same as the tax issue during the period associated with the
10 current determination.

11 2. A department employee who was involved in the prior determination
12 identified or reviewed the tax issue before completing the prior determination, as
13 shown by any schedules, exhibits, audit reports, documents, or other written
14 evidence pertaining to the determination, and the schedules, exhibits, reports,
15 documents and other written evidence show that the department did not adjust the
16 person's treatment of the tax issue.

17 3. The liability asserted by the department as described under subd. 1. was not
18 asserted in the prior determination.

19 (b) This subsection does not apply to any period associated with a ^{WITH AN AUDIT}
20 determination, if the period begins after the promulgation of a rule, dissemination
21 of written guidance to the public or to the person who is subject to the ^{AUDIT} determination,
22 the effective date of a statute, or the date on which a tax appeals commission or court
23 decision becomes final and conclusive and if the rule, guidance, statute, or decision
24 imposes the liability as a result of the tax issue described in par. (a) 1. This subsection
25 does not apply to any period associated with a determination if the taxpayer did not

WITH THE TAX ISSUES IN THE PRIOR AUDIT

ASSEMBLY BILL 40

SECTION 1466

THE TAX ISSUE IN THE PRIOR AUDIT
X DETERMINATION

1 give the department employee adequate and accurate information or if the issue is
2 settled by a written agreement between the department and the taxpayer.

3 **SECTION 1467.** 76.14 of the statutes is amended to read:

4 **76.14 Remedies for nonpayment of taxes.** All taxes levied under this
5 subchapter upon the property of any company defined in s. 76.02, which are not paid
6 at the time provided by law, shall thereupon become delinquent and bear interest at
7 the rate of 1.5% per month until actually paid. Upon a showing by the department
8 under s. 73.16 (4), the failure of any such company to pay the taxes and interest so
9 required of the company within 60 days after the entry of final judgment dismissing
10 in whole or in part any action of the company to restrain or set aside a tax, or the
11 failure of the company within 60 days after the entry of final judgment in favor of the
12 state for the taxes and interest to pay the judgment shall be cause for forfeiture of
13 all the rights, privileges and franchises granted by special charter or obtained under
14 general laws, by or under which the company is organized and its business is
15 operated. The attorney general upon the showing by the department under s. 73.16
16 (4) shall proceed by action to have forfeiture of such rights, privileges and franchises
17 of the company duly declared. Any such company, at any time before the final
18 judgment for forfeiture of such rights, privileges and franchises is rendered, may be
19 permitted, absent a showing by the department under s. 73.16 (4), to pay the taxes,
20 interest and the costs of the action upon special application to the court in which the
21 action is pending upon such terms as the court directs. Section 71.91, as it applies
22 to the collection of delinquent taxes under ch. 71, applies to the collection of
23 delinquent taxes under this subchapter.

24 **SECTION 1468.** 76.636 (1) (d) of the statutes is amended to read:

Fiscal Note Analysis?

Yes	<input type="checkbox"/>
No	<input checked="" type="checkbox"/> X

Division: **IS&E**

Assigned to: Rick DeBano	Date: 2/22/13	Due Date: 3/6/13
Prepared by: Rick DeBano	Date: 3/1/13	<i>(analysis should generally be prepared within 1 week of assignment)</i>
Reviewed by: Nate Weber	Date: March 7, 2013	

- The following changes are recommended to Section 1466 of AB 40:

- "This subsection does not apply to any period associated with an audit determination, if the period begins after the promulgation of a rule, dissemination of written guidance to the public or to the person who is subject to the determination, the effective date of a statute, or the date on which a tax appeals commission or court decision becomes final and conclusive and if the rule, guidance, statute, or decision imposes the liability as a result of the tax issue described in par. (a) 1. This subsection does not apply to any period associated with an audit determination if the taxpayer did not give the department employee adequate and accurate information regarding the tax issue in the prior audit determination or if the tax issue ~~was~~ settled in the prior audit determination by a written agreement between the department and the taxpayer.

- The initial applicability language is contained in Section 9337(1) of AB40 and is consistent with the initial applicability language included in the drafting instructions.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0373/P1

JK:eev:rs

Stays PM MTR

LFB:.....Shanovich (RR) – Motion 999: federal audit reports enforcement activities

FOR 2013-2015 BUDGET – NOT READY FOR INTRODUCTION

**ASSEMBLY AMENDMENT ,
TO ASSEMBLY BILL 40**

in 6-7-13

Insert 1-1

- 1 At the locations indicated, amend the bill as follows:
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- 3 **2.** Page 728, line 21: delete “determination” and substitute “audit
- 4 determination”.
- 5 **3.** Page 728, line 25: delete “with a” and substitute “with the tax issue in the
- 6 prior ^{an} audit”.
- 7 **4.** Page 729, line 1: delete “the issue” and substitute “the tax issue in the prior
- 8 audit determination”.

9 (END)

Insert 1-8

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0373/Plins
JK:eev:rs

Insert 1 - 1

- 1 **1.** Page 728, line 2: delete “to a” and substitute “to an audit”. ✓
- 2 **2.** Page 728, line 8: after “prior” insert “audit”. ✓
- 3 **3.** Page 728, line 10: after “current” insert “audit”. ✓
- 4 **4.** Page 728, line 11: after “prior” insert “audit”. ✓
- 5 **5.** Page 728, line 12: after “prior” insert “audit”. ✓
- 6 **6.** Page 728, line 14: after “to the” insert “audit”. ✓
- 7 **7.** Page 728, line 18: after “prior” insert “audit”. ✓

Insert 1 - 8

- 8 **8.** Page 729, line 1: delete that line and substitute “give the department
9 employee adequate and accurate information regarding the tax issue in the prior
10 audit determination or if the tax issue was”. ✓
- 11 **9.** Page 729, line 2: after “settled” insert “in the prior audit determination”. ✓



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBb0373/P2

JK:eev:rs

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11. Page 729, line 1: delete that line and substitute “give the department employee adequate and accurate information regarding the tax issue in the prior audit determination or if the tax issue was”.

12. Page 729, line 2: after “settled” insert “in the prior audit determination”.

(END)